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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,549	03/20/2006	Michael Zimpfer	209593-102438	1488
21130 7590 01/29/2009 BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP ATTN: IP DEPARTMENT DOCKET CLERK 2300 BP TOWER 200 PUBLIC SQUARE CLEVELAND, OH 44114				
EXAMINER HEPPERLE, STEPHEN M				
ART UNIT		PAPER NUMBER		
3753				
MAIL DATE		DELIVERY MODE		
01/29/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/559,549

**Applicant(s)**

ZIMPFER ET AL.

**Examiner**

Stephen M. Hepperle

**Art Unit**

3753

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-19, 22-24 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-36 is/are allowed.
- 6) ☒ Claim(s) 14-19, 22-24 and 27-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

The Notice of Allowance mailed 9 January 2009 is hereby vacated in view of the following.

Prosecution on the merits of this application is reopened on claims 14-19 and 22-24 and 27-29 considered unpatentable for the reasons indicated below:

The previous action failed to adequately consider the applicability of the reference to Shen (2003/0019526), and Clarkson (378,291), as well as some issues of clarity.

Claim 29 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. They bypass channel of this claim is not described in the specification. Page 10, line 17 refers to a bypass channel 24, while page 11, line 3 uses "34", which agrees with Fig. 4. Amending the specification at page 10 line 17 by changing "24" to "34" will overcome this rejection.

Claims 24, 14-19, 22-23, and 27-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 24, the expressions "defining the blocking position" and "defining the open position" are unclear. It is suggested that the claim be amended to read --a blocking porting defining a blocking position when said blocking portion is aligned with the passage channel, and a pin portion....defining an open position when said pin portion is aligned with the passage channel--. It is unclear if the chamber recited in claim 18 is the same or a different chamber than that recited in parent claim 24.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24, 14-19, 22-23, 27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shen (2003/0019526). Shen shows a valve housing 10 having a passage channel 32, 13 and a slide bore extending transversely to the passage bore. A slide in the slide bore includes a head 88 (sealed by seal 82) connected by a pin 61 to a blocking portion 62. The blocking portion divides the slide bore into a chamber 52 that communicates through a channel 55 with the passage channel so that the passage channel and chamber are at the same pressure. As pressure in the passage channel increases, the slide is caused to move against spring 85 to substantially block the passage channel. The system includes a pump 3 and line 5 leads to a load. It would have been obvious to include a parallel line to increase the capacity of the system, and because it has been held that mere duplication of parts is obvious. Spring abutment 71 is mounted on threads and is seen as adjustable. Alternatively, it would have been obvious to make it adjustable to vary the pressure setting of the valve (claims 16-17). Regarding claim 23, it would have been obvious to make the slide bore as large as the passage channel at the point of intersection to enable the blocking portion to be big enough to substantially block the flow. Regarding claim 29, it would have been obvious to connect bypass channel from a point upstream of Shen valve 8 back to the pump supply reservoir (through a pressure relief valve) to relieve pump pressure in the event of a blockage, and to reduce pumped fluid heating.

Claims 24, 14-19, 22-23, and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clarkson (378,291). Clarkson shows a valve housing having a passage channel a, a' and a slide bore extending transversely to the passage bore. A slide in the slide bore includes a head G (sealed by seal B) connected by a pin (stem I) to a blocking portion H. The blocking portion divides the slide bore into a chamber above that communicates through a channel H' (open region to left of stem I in Fig. 2, seen as provided in the blocking portion of the slide per claim 28) with the passage channel so that the passage channel and chamber are at the same pressure. As pressure in the passage channel increases, the slide is caused to move against a spring below to substantially block the passage channel. The system includes an air pump to supply system pressure and line a' leads to a load (brake). It would have been obvious to include a parallel line to increase the capacity of the system, and because it has been held that mere duplication of parts is obvious. The spring chamber is vented and has no spring adjustment. However, it would have been obvious to make it adjustable to vary the pressure setting of the valve (claims 16-17). Regarding claim 23, the slide bore is as large as the passage channel at the point of intersection to enable the blocking portion to be big enough to substantially block the flow.

Claims 30-36 are still seen as allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Hepperle whose telephone number is 571-272-4913. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. Hepperle/  
Primary Examiner, Art Unit 3753